grace period will be implemented as described in Subsection F of [~~20.11.3.201~~] 20.11.3.104 NMAC. At the end of this 12-month grace period, the existing conformity determination shall lapse.

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C. Frequency of conformity determinations for transportation improvement programs:

(1) A new TIP shall be demonstrated to conform before the TIP is approved by the MPO or accepted by DOT.

(2) A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT, unless the amendment merely adds or deletes exempt projects listed in [~~20.11.3.223~~] 20.11.3.126 NMAC or [~~20.11.3.224~~] 20.11.3.127 NMAC and has been made in accordance with the notification provisions of Subparagraph (g) of Paragraph (1) of Subsection D of [~~20.11.3.202~~] 20.11.3.105 NMAC.

(3) The MPO and DOT shall determine the conformity of the TIP (including a new regional emissions analysis) no less frequently than every four years. If more than four years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the TIP, a 12-month grace period will be implemented as described in Subsection F of [~~20.11.3.201~~] 20.11.3.104 NMAC. At the end of this 12-month grace period, the existing conformity determination shall lapse.

D. Projects: FHWA/FTA projects shall be found to conform before they are adopted, accepted, approved or funded. Conformity shall be re-determined for any FHWA/FTA project if one of the following occurs: a significant change in the project's design concept and scope; three years have elapsed since the most recent major step to advance the project; or initiation of a supplemental environmental document for air quality purposes. Major steps include NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; and, construction (including federal approval of plans, specifications and estimates).

E. Triggers for transportation plan and TIP conformity determinations: Conformity of existing transportation plans and TIPs shall be re-determined within two years of the following, or after a 12-month grace period (as described in Subsection F of [~~20.11.3.201~~] 20.11.3.104 NMAC) the existing conformity determination shall lapse, and no new project-level conformity determinations may be made until conformity of the transportation plan and TIP has been determined by the MPO and DOT:

(1) The effective date of EPA's finding that motor vehicle emission budgets from an initially submitted control strategy implementation plan or maintenance plan are adequate pursuant to Subsection E of [~~20.11.3.215~~] 20.11.3.118 NMAC and can be used for transportation conformity purposes;

(2) The effective date of EPA approval of a control strategy implementation plan revision or maintenance plan that establishes or revises a motor vehicle emissions budget if that budget has not yet been used in a conformity determination prior to approval; and

(3) The effective date of EPA promulgation of an implementation plan that establishes or revises a motor vehicle emissions budget or adds, deletes or changes TCMs.

F. Lapse grace period. During the 12-month grace period referenced in Paragraph (3) of Subsection B of [~~20.11.3.201~~] 20.11.3.104 NMAC, Paragraph (3) of Subsection C of [~~20.11.3.210~~] 20.11.3.113 NMAC, and Subsection E of [~~20.11.3.210~~] 20.11.3.113 NMAC, a project may be found to conform according to the requirements of 20.11.3 NMAC:

(1) the project is included in the currently conforming transportation plan and TIP (or regional emissions analysis); or

(2) the project is included in the most recent conforming transportation plan and TIP (or regional emissions analysis).

[7/1/98; 20.11.3.201 NMAC - Rn, 20NMAC 11.03.II.2, & A, 6/1/02; A, 6/13/05; A, 12/17/08; Rn, 20.11.3.104 NMAC, 11/15/10]

[~~20.11.3.202~~] 20.11.3.105 CONSULTATION:

A. General: Transportation plans and programs shall be in conformity with the applicable implementation plan (SIP) for the nonattainment/maintenance area of Bernalillo county. The MRCOG, as the MPO, is responsible for conducting the air quality transportation conformity analyses for all of Bernalillo county. The applicable plans and programs are the TIP and the MTP. The document serving to demonstrate conformity is the transportation/air quality conformity finding. [~~20.11.3.202~~] 20.11.3.105 NMAC provides procedures for interagency consultation (federal, state and local) and resolution of conflicts. Such consultation procedures shall be undertaken by the MPO, state DOT and DOT with the air agency and EPA before making conformity determinations and by the air agency and EPA with the MPO, state DOT and DOT in developing applicable implementation plan revisions.

nonattainment and maintenance areas, references to "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP that are in the rural nonattainment or maintenance area. When the requirements of Subsection D of [~~20.11.3.203~~] 20.11.3.106 NMAC apply to isolated rural nonattainment and maintenance areas, references to "MPO" shall be taken to mean the state department of transportation.

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(b) In isolated rural nonattainment and maintenance areas that are subject to [~~20.11.3.215~~] 20.11.3.118 NMAC, FHWA/FTA projects shall be consistent with motor vehicle emissions budget(s) for the years in the timeframe of the attainment demonstration or maintenance plan. For years after the attainment year (if a maintenance plan has not been submitted) or after the last year of the maintenance plan, FHWA/FTA projects shall satisfy one of the following requirements:

(i) [~~20.11.3.215~~] 20.11.3.118 NMAC;

(ii) [~~20.11.3.216~~] 20.11.3.119 NMAC (including regional emissions analysis for NO_x in all ozone nonattainment and maintenance areas, notwithstanding Paragraph (2) of Subsection F of [~~20.11.3.216~~] 20.11.3.119 NMAC);

(iii) as demonstrated by the air quality dispersion model or other air quality modeling technique used in the attainment demonstration or maintenance plan, the FHWA/FTA project, in combination with all other regionally significant projects expected in the area in the timeframe of the statewide transportation plan, shall not cause or contribute to any new violation of any standard in any areas; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area; control measures assumed in the analysis shall be enforceable.

(c) The choice of requirements in Subparagraph (b) of Paragraph (2) of Subsection [~~L~~]N of [~~20.11.3.206~~] 20.11.3.109 NMAC and the methodology used to meet the requirements of Item (iii) of Subparagraph (b) of Paragraph (2) of Subsection [~~L~~]N of [~~20.11.3.206~~] 20.11.3.109 NMAC shall be determined through the interagency consultation process required in Subparagraph (h) of Paragraph (1) of Subsection D of [~~20.11.3.202~~] 20.11.3.105 NMAC through which the relevant recipients of Title 23 U.S.C. or Federal Transit Laws funds, the local air quality agency, the state air quality agency and the state DOT shall reach consensus about the option and methodology selected. EPA and DOT shall be consulted through this process as well. In the event of unresolved disputes, conflicts may be escalated to the governor consistent with the procedure in Subsection E of [~~20.11.3.202~~] 20.11.3.105 NMAC, which applies for any state air agency comments on a conformity determination.
[7/1/98; 20.11.3.206 NMAC - Rn, 20 NMAC 11.03.II.7, 6/1/02; A, 6/13/05; A, 12/17/08; Rn, 20.11.3.109 NMAC, 11/15/10]

[~~20.11.3.207~~] 20.11.3.110 CRITERIA AND PROCEDURES: LATEST PLANNING ASSUMPTIONS:

A. Except as provided in Subsection A of [~~20.11.3.207~~] 20.11.3.110 NMAC, the conformity determination, with respect to all other applicable criteria in [~~20.11.3.208~~] 20.11.3.111 NMAC through [~~20.11.3.216~~] 20.11.3.119 NMAC, shall be based upon the most recent planning assumptions in force at the time the conformity analysis begins. The conformity determination shall satisfy the requirements of Subsections B through F of [~~20.11.3.207~~] 20.11.3.110 NMAC using the planning assumptions available at the time the conformity analysis begins as determined through the interagency consultation process required in Subparagraph (a) of Paragraph (1) of Subsection D of [~~20.11.202~~] 20.11.105 NMAC. The "time the conformity analysis begins" for a transportation plan or TIP determination is the point at which the MPO or other designated agency begins to model the impact of the proposed transportation plan or TIP on travel or emissions. New data that becomes available after an analysis begins is required to be used in the conformity determination only if a significant delay in the analysis has occurred, as determined through the interagency consultation procedures described in [~~20.11.3.202~~] 20.11.3.105 NMAC.

B. Assumptions shall be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. These assumptions shall be presented to and discussed by the TCTC as part of the interagency consultation procedures described in Paragraph (1) of Subsection D of [~~20.11.3.202~~] 20.11.3.105 NMAC. The conformity determination shall also be based on the latest assumptions about current and future background concentrations.

C. The conformity determination for each transportation plan and TIP shall discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination. These assumptions shall be presented to and discussed by the TCTC as part of the interagency consultation procedures described in Paragraph (1) of Subsection D of [~~20.11.3.202~~] 20.11.3.105 NMAC.

D. The conformity determination shall include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time. These assumptions shall be presented to and discussed

population and historical growth trends for VMT per person. These methods shall also consider future economic activity, transit alternatives and transportation system policies.

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E. PM_{10} from construction-related fugitive dust:

(1) For areas in which the implementation plan does not identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the fugitive PM_{10} emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(2) In PM_{10} nonattainment and maintenance areas with implementation plans that identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the regional PM_{10} emissions analysis shall consider construction-related fugitive PM_{10} and shall account for the level of construction activity, the fugitive PM_{10} control measures in the applicable implementation plan and the dust-producing capacity of the proposed activities.

F. $PM_{2.5}$ from construction-related fugitive dust:

(1) For $PM_{2.5}$ areas in which the implementation plan does not identify construction-related fugitive $PM_{2.5}$ as a significant contributor to the nonattainment problem, the fugitive $PM_{2.5}$ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(2) In $PM_{2.5}$ nonattainment and maintenance areas with implementation plans that identify construction-related fugitive $PM_{2.5}$ as a significant contributor to the nonattainment problem, the regional $PM_{2.5}$ emissions analysis shall consider construction-related fugitive $PM_{2.5}$ and shall account for the level of construction activity, the fugitive $PM_{2.5}$ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

G. Reliance on previous regional emissions analysis:

(1) Conformity determinations for a new transportation plan or TIP may be demonstrated to satisfy the requirements of [~~20.11.3.215~~] 20.11.3.118 NMAC, *Criteria and Procedures: Motor Vehicle Emissions Budget*, or [~~20.11.3.216~~] 20.11.3.119 NMAC, *Criteria and Procedures: Interim Emissions in Areas Without Motor Vehicle Emissions Budgets*, without new regional emissions analysis if the previous regional emissions analysis also applies to the new plan or TIP. This requires a demonstration that:

(a) the new plan or TIP contains all projects that shall be started in the TIP's timeframe in order to achieve the highway and transit system envisioned by the transportation plan;

(b) all plan and TIP projects that are regionally significant are included in the transportation plan with design concept and scope adequate to determine their contribution to the transportation plan's or TIP's regional emissions at the time of the previous conformity determination;

(c) the design concept and scope of each regionally significant project in the new plan or TIP are not significantly different from that described in the previous transportation plan; and

(d) the previous regional emissions analysis is consistent with the requirements of [~~20.11.3.215~~] 20.11.3.118 NMAC (including that conformity to all currently applicable budgets is demonstrated) or [~~20.11.3.216~~] 20.11.3.119 NMAC, as applicable.

(2) A project which is not from a conforming transportation plan and a conforming TIP may be demonstrated to satisfy the requirements of [~~20.11.3.215~~] 20.11.3.118 NMAC or [~~20.11.3.216~~] 20.11.3.119 NMAC without additional regional emissions analysis if allocating funds to the project shall not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan the previous regional emissions analysis is still consistent with the requirements of [~~20.11.3.215~~] 20.11.3.118 NMAC (including that conformity to all currently applicable budgets is demonstrated) or [~~20.11.3.216~~] 20.11.3.119 NMAC, as applicable, and if the project is either:

(a) not regionally significant; or

(b) included in the conforming transportation plan (even if it is not specifically included in the latest conforming TIP) with design concept and scope adequate to determine its contribution to the transportation plan's regional emissions at the time of the transportation plan's conformity determination, and the design concept and scope of the project is not significantly different from that described in the transportation plan.

(3) A conformity determination that relies on Subsection G of [~~20.11.3.219~~] 20.11.3.122 NMAC does not satisfy the frequency requirements of Subsection B or Subsection C of [~~20.11.3.201~~] 20.11.3.104 NMAC.

[7/1/98; 20.11.3.219 NMAC - Rn, 20 NMAC 11.03.II.20, 6/1/02; A, 6/13/05; A, 12/17/08; Rn, 20.11.3.122 NMAC, 11/15/10]

[~~20.11.3.220~~] 20.11.3.123 PROCEDURES FOR DETERMINING LOCALIZED CO, PM_{10} AND $PM_{2.5}$ CONCENTRATIONS (Hot-Spot Analysis):

A. CO hot spot analysis: